

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**MARK ANGEL PAGAN,**

**Plaintiff,**

**v.**

**SERGEANT GERALD MISHK, DESK SERGEANT  
MARK SCHUH, and DETECTIVE WEISSINGER,**

**Defendants.**

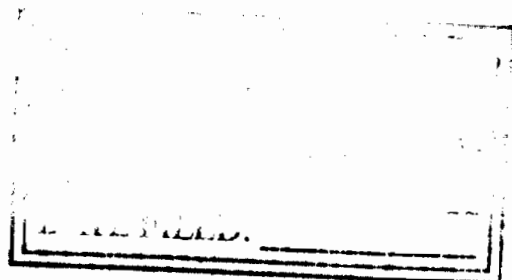
**07 Civ. 8681 (SCR)(PED)**

**MEMORANDUM ORDER  
ACCEPTING REPORT AND  
RECOMMENDATION**

**STEPHEN C. ROBINSON, United States District Judge:**

*Pro se* plaintiff Mark Angel Pagan brings this case under 42 U.S.C. § 1983 to recover damages for an alleged use of excessive force. On May 16, 2008, Pagan moved to amend his Complaint under Rules 15 and 21 of the Federal Rules of Civil Procedure to add defendants to the action. On August 28, 2008, this case was referred to Magistrate Judge Mark Fox, and later reassigned to Magistrate Judge Paul Davison, to issue a Report and Recommendation on the motion to amend.

Judge Davison issued the Report and Recommendation on February 24, 2009, advising this Court to deny Pagan's motion to amend as futile. As Judge Davison explicitly noted at the end of the Report and Recommendation, under 28 U.S.C. § 636(b)(1) and Rules 72(b) and 6(d) of the Federal Rules of Civil Procedure, the parties had a right to file written objections to the Report and Recommendation within thirteen working days from February 24, 2009. More than three months have elapsed since Judge



Davison issued his Report and Recommendation, and the parties have not filed objections.\*

## I. STANDARD OF REVIEW

In reviewing a Report and Recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C § 636(b)(1). To accept a Report and Recommendation to which no timely objection has been made, a district court need only satisfy itself that “there is no clear error on the face of the record.” *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985) (citations omitted); *accord Edwards v. Fischer*, 414 F. Supp. 2d 342, 346-47 (S.D.N.Y. 2006); *see also Pizarro v. Bartlett*, 776 F. Supp. 815, 817 (S.D.N.Y. 1991) (court may accept report if it is “not facially erroneous”). As neither party has objected to Judge Davison’s Report and Recommendation, this Court will review the Report and Recommendation for clear error.

## II. DISCUSSION

This Court has reviewed Judge Davison’s comprehensive and well-reasoned Report and Recommendation and has determined that there is no clear legal error on the face of the record. Accordingly, the Court accepts Judge Davison’s Report and Recommendation in its entirety and denies Pagan’s motion to amend his complaint. Claims against any subsequently-added defendants would be barred by the applicable three-year statute of limitations, and, therefore, amendment for this purpose would be futile. *See Tapia-Ortiz v. Doe*, 171 F.3d 150, 151-52 (2d Cir. 1999); *Barrow v.*

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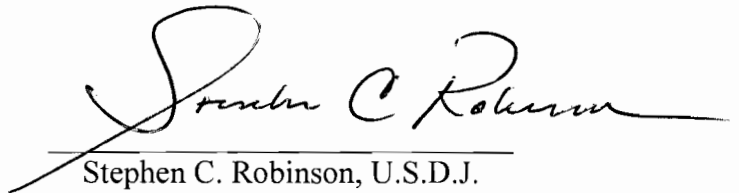
\* The Court received a handwritten letter from Pagan on March 18, 2009, requesting a 30-day extension of time to file his objections to the Report and Recommendation. The Court granted this request on April 14, 2009, and Pagan has not submitted any objections in the two months since that time.

*Wethersfield Police Dept.*, 66 F.3d 466, 470 (2d Cir. 1995). The Clerk of the Court is directed to close docket entry 15.

*It is so ordered.*

Dated: White Plains, New York

June 24, 2009

  
Stephen C. Robinson, U.S.D.J.